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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/541,500
Filing Date: July 07, 2005
Appellant(s): OGASAWARA ET AL.

Christopher M. Tobin
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed Oct 15, 2009 appealing from the Office action mailed

Dec. 08, 2008

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The statement of the status of claims contained in the brief is correct.

(8) Evidence Relied Upon

US 6,266,649	Linden et al.	July 2001
US 5,933,811	Angles et al.	Aug. 1999
US 2004/0024652 A1	Buhse et al.	Feb. 2004
US 6,996,094	Cave et al.	Feb. 2006

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

DETAILED ACTION

1.   It is hereby acknowledged that the following papers have been received and placed of

record in the file: Amendment date 09/02/2008

2.   Claims 1, 3-4, 6-8, 10-11, 13-14, 16-17, 19-21, 23 and 25-39 are presented for

examination.

Claim Rejections - 35 USC § 103

3.   The text of those sections of Title 35, U.S. Code not included in this action can be found

in a prior Office action.

4.   Claims 1, 3-4, 6-8, 10-11, 13-14, 16-17, 19-21, 23 and 25-33 are rejected under 35

U.S.C. 103(a) as being unpatentable over Linden et al. (US 6,266,649) in view of Angles et al.

(US 5,933,811) and further in view of Buhse et al. (US 2004/0024652 A1).

5.   Regarding claim 1, Linden teaches a service managing apparatus for managing an

information transmission service in which digital content is sent in real time between

communication devices connected to each other over a network, the apparatus comprising:

a communication controlling means for controlling the communication with each of the

communication devices (web server will control the flow of information that is used by

recommendation service see Linden: col.7 lines 6-19);

an information registering (User Profile see Linden: Fig.1 item 38) means for maintaining

registration information (music title and video title consider as audio/video information "context

of a recommendation service, including two specific implementations thereof, that is used to

recommend book titles, music titles, video titles, and other types of items to individual users of

the Amazon.com Web site" see Linden: col.4 lines 40-45) on more than one piece of content

available from those of communication devices that are registered as an information provider

(computer implemented service and associated methods for generating personalized

recommendations of item based on the collective interests of a community of users see Linden:

col.2 lines 33-37); and

     an information managing means for dynamically generating, based on the registration

information, choices-window information from which selection is made (Linden teaches only

recommended information will be shown to the users and when the user selected the

recommended music title or video title, recommendation server will send the selected items to

the users "the list is filtered by deleting any items that (1) have already been purchased or rated

by the user, (2) have a negative score, or (3) do not fall within the designated product group (e.g.,

books) or category" see Linden: col. 15 lines 36-40) of a desired one of the plurality of pieces of

offered content by those of ("to generate a set of recommendations for a give user, the services

retrieves from the table the similar items lists corresponding to items already known to be of

interest to the user, and then appropriately combines these lists to generate a list of recommended

items" see Linden: col.3 lines 7-18) the communication devices that are to receive the desired

piece of offered content,

     the information managing means updating, when the registration information has been

updated based on updating information, the choices-window information on the basis of the

(external component(40) are various order processing module for accepting and processing

orders and for updating the purchase histories of the users see Linden: col.7 lines 40-48) updated

registration information, wherein the choice-window information includes information indicative

of whether the communication device that is the information includes information indicative of

whether the communication device that is the information provider can currently provide the

offered digital content in real time (Linden teaches only recommended information will be

shown to the users and when the user selected the recommended music title or audio title,

recommendation server will send the selected items to the users "the list is filtered by deleting

any items that (1) have already been purchased or rated by the user, (2) have a negative score, or

(3) do not fall within the designated product group (e.g., books) or category" see Linden: col. 15

lines 36-40), and

wherein communication controlling means controls the connection between the

communication device that receives the desired piece of offered content (Linden teaches only

recommended information will be shown to the users and when the user selected the

recommended music title or audio title, recommendation server will send the selected items to

the users "the list is filtered by deleting any items that (1) have already been purchased or rated

by the user, (2) have a negative score, or (3) do not fall within the designated product group (e.g.,

books) or category" see Linden: col. 15 lines 36-40) and the communication device that send the

desired piece of offered content being provided in real time (only recommended information will

be shown to the users "the list is filtered by deleting any items that (1) have already been

purchased or rated by the user, (2) have a negative score, or (3) do not fall within the designated

product group (e.g., books) or category" see Linden: col. 15 lines 36-40).

Linden does not explicitly discloses a registered information updating step of updating the information registering means on the basis of updating information reflecting the current status of the information provider.

Angles teaches a registered information updating step of updating the information registering means on the basis of updating information reflecting the current status of the information provider (a system and method for delivering customized electronic advertisement in an interactive communication system. The customized advertisements are selected based on consumer computer and are then integrated with offering maintained by different content providers see abstract). Angles further provides the advantage of when the advertisement providers status is present, the content provider computer requests the customized advertisement and the advertisement computer then sends the customized directly to the consumer computer (FIG. 9 and 10 see Angles: Col. 21 line 52).

It would have been obvious to one of ordinary skill in the art, having the teachings of Linden through Angles before them at the time the invention was made to modify the service managing method and system of Linden to provide advertisers can pay for advertising direct at specific demographic target groups for advertising purpose (Angles: col.4 line 1-5).

Linden together with Angles does not explicitly discloses maintaining registration information on more than one piece of digital content from those of communication devices that are registered, offered digital content in real time; and offered content being provided in real time when it is indicated as currently available in real time.

Buhse teaches maintaining registration information on more than one piece of digital content from those of communication devices that are registered (system updates the catalog and can be distributed to retail network "The system then updates the catalog and the catalog can be distributed to a retail network. Orders placed by retailers, by retailers for consumers, or placed directly by consumers are processed through the OMS 105" see Buhse: ¶[0037]) offered digital content in real time; and offered content being provided in real time when it is indicated as currently available in real time (downloading digital content from the content distributor center to the consumer in real time listing "The Offer Catalog Component (OCC) 102 can be a real time listing of available digital products" see Buhse: ¶[0031]; Fig.2C Item 6a).

It would have been obvious to one of ordinary skill in the art, having the teachings of Linden through Buhse before them at the time the invention was made to modify the service managing method and system of Linden and Angles to include maintaining registration information on more than one piece of digital content from those of communication devices that are registered, offered digital content in real time, and offered content being provided in real time when it is indicated as currently available in real time as taught by Buhse.

One of ordinary skill in the art would have been motivated to make this modification in order to provide more efficient managing an information transmission service over a network in view of Buhse.

6.   Regarding claim 3, Linden through Buhse taught service managing system and method according to claim 1, as described above. Linden further teaches the information managing means generates the choices-window information (only recommended information will be shown to the users and when the user selected the recommended music title or audio title,

recommendation server will send the selected items to the users "the list is filtered by deleting

any items that (1) have already been purchased or rated by the user, (2) have a negative score, or

(3) do not fall within the designated product group (e.g., books) or category" see Linden: col. 15

lines 36-40) from which selection is available only for digital content that can currently be

provided in real time (The user can also select a specific category such as "non-fiction" or

"romance" from a drop down menu 202 to request category-specific recommendations see

Linden: col.15 lines 63-67).

7.   Regarding claim 4, Linden through Buhse taught service managing system and method

according to claim 1, as described above. Buhse further teaches the updating information

includes types of more than one media which can be used for the real-time provision of the

offered digital content (download songs or digital work direct from the system "From the

consumer's point of view rendering device independence means that once the consumer has

purchased rights to a digital work, assuming the purchase plan allows for unrestricted use, the

system can log and serve any type of rendering device capable of playing that type of product. In

some cases the rendering device itself can accomplish a direct download from the system" see

Buhse: ¶ [0221]).

8.   Regarding claim 6, Linden through Buhse taught service managing system and method

according to claim 1, as described above. Linden further teaches the information managing

means receives the registered information and registers it into the information registering means;

and the communication device receives the updating information and updates the registered

information (computer implemented service and associated method for generating personalized

recommendations of items based on the collective interests of a community of users and updating

the recommended lists based on the users purchased see Linden: col.2 lines 33-45; col.7 lines 40-48).

9.   Regarding claim 7, Linden through Buhse taught service managing system and method according to claim 6, as described above. Buhse further teaches the communication controlling means receives the updating information from the communication device (system updates the catalog and can be distributed to retail network "The system then updates the catalog and the catalog can be distributed to a retail network. Orders placed by retailers, by retailers for consumers, or placed directly by consumers are processed through the OMS 105" see Buhse: ¶[0037]) which provides the digital content in real time (downloading digital content from the content distributor center to the consumer in real time listing "The Offer Catalog Component (OCC) 102 can be a real time listing of available digital products" see Buhse: ¶[0031]; Fig.2C Item 6a).

10.   Regarding claim 8, they are rejected for the same reason as claims 1 as set forth hereinabove. Linden through Buhse taught the claimed apparatus, therefor together, they teach the claimed method.

11.   Regarding claim 10, claim 10 is rejected for the same reason as claim 3 as set forth hereinabove.

12.   Regarding claim 11, claim 11 is rejected for the same reason as claim 4 as set forth hereinabove.

13.   Regarding claim 13, Linden through Buhse taught service managing system and method according to claim 8, as described above. Buhse further teaches the information-updating step, the choices-window information is updated based on the registered information updated with the

updating information received from the communication device which provides the offered digital

in real time (download songs or digital work direct from the system in real time "From the

consumer's point of view rendering device independence means that once the consumer has

purchased rights to a digital work, assuming the purchase plan allows for unrestricted use, the

system can log and serve any type of rendering device capable of playing that type of product. In

some cases the rendering device itself can accomplish a direct download from the system" see

Buhse:¶[0221]).

14.   Regarding claim 14, Linden teaches a service proving system which provides an

information transmission service in which digital content is sent in real time between

communication devices connected to each other over a network, the system comprising:

        a plurality of communication devices to provide or receive offered content (music title

and video title consider as audio/video information "context of a recommendation service,

including two specific implementations thereof, that is used to recommend book titles, music

titles, video titles, and other types of items to individual users of the Amazon.com Web site" see

Linden: col.4 lines 40-45) to be provided by an information provider or to be used by an

information user (plurality computer users see Linden: Fig.1 Item 34) , respectively, each as a

user of the information transmission service,

        each of the communication devices including a communication means fro sending or

receiving offered content to or form the other communication device as a counterpart (web server

34 accesses a database 35 HTML content which includes product information pages and other

browsable information see Linden: col.7 lines 13-19);

a service management device connected to each of the communication devices via a

network to manage the information transmission service (web server manages the information

transmission device between database and the plurality computers see Linden: col.7 lines 13-19),

the service management device (Web Server see Linden: Fig.1 item 32) including:

a communication controlling means for controlling the communication with each of the

communication devices (web server will control the flow of information that is used by

recommendation service see Linden: col.7 lines 6-19);

an information registering (User Profile see Linden: Fig.1 item 38) means for maintaining

registration information (music title and video title consider as audio/video information "context

of a recommendation service, including two specific implementations thereof, that is used to

recommend book titles, music titles, video titles, and other types of items to individual users of

the Amazon.com Web site" see Linden: col.4 lines 40-45) on more than one piece of content

available from those of communication devices that are registered as an information provider

(computer implemented service and associated methods for generating personalized

recommendations of item based on the collective interests of a community of users see Linden:

col.2 lines 33-37); and

an information managing means for dynamically generating, based on the registration

information, choices-window information from which selection is made (Linden teaches only

recommended information will be shown to the users and when the user selected the

recommended music title or audio title, recommendation server will send the selected items to

the users "the list is filtered by deleting any items that (1) have already been purchased or rated

by the user, (2) have a negative score, or (3) do not fall within the designated product group (e.g.,

books) or category" see Linden: col. 15 lines 36-40) of a desired one of the plurality of pieces of

offered content by those of ("to generate a set of recommendations for a give user, the services

retrieves from the table the similar items lists corresponding to items already known to be of

interest to the user, and then appropriately combines these lists to generate a list of recommended

items" see Linden: col.3 lines 7-18) the communication devices that are to receive the desired

piece of offered content,

the information managing means updating, when the registration information has been

updated based on updating information, the choices-window information on the basis of the

(external component(40) are various order processing module for accepting and processing

orders and for updating the purchase histories of the users see Linden: col.7 lines 40-48) updated

registration information, wherein the choice-window information includes information indicative

of whether the communication device that is the information includes information indicative of

whether the communication device that is the information provider can currently provide the

offered digital content in real time (Linden teaches only recommended information will be

shown to the users and when the user selected the recommended music title or audio title,

recommendation server will send the selected items to the users "the list is filtered by deleting

any items that (1) have already been purchased or rated by the user, (2) have a negative score, or

(3) do not fall within the designated product group (e.g., books) or category" see Linden: col. 15

lines 36-40), and

wherein communication controlling means controls the connection between the

communication device that receives the desired piece of offered content (Linden teaches only

recommended information will be shown to the users and when the user selected the

recommended music title or audio title, recommendation server will send the selected items to

the users "the list is filtered by deleting any items that (1) have already been purchased or rated

by the user, (2) have a negative score, or (3) do not fall within the designated product group (e.g.,

books) or category" see col. 15 lines 36-40) and the communication device that send the desired

piece of offered content being provided in real time (only recommended information will be

shown to the users "the list is filtered by deleting any items that (1) have already been purchased

or rated by the user, (2) have a negative score, or (3) do not fall within the designated product

group (e.g., books) or category" see Linden: col. 15 lines 36-40).

Angles teaches a registered information updating step of updating the information

registering means on the basis of updating information reflecting the current status of the

information provider (a system and method for delivering customized electronic advertisement in

an interactive communication system. The customized advertisements are selected based on

consumer computer and are then integrated with offering maintained by different content

providers see abstract). Angles further provides the advantage of when the advertisement

providers status is present, the content provider computer requests the customized advertisement

and the advertisement computer then sends the customized directly to the consumer computer

(FIG. 9 and 10 see Angels: Col. 21 line 52).

Linden together with Angles does not explicitly discloses maintaining registration

information on more than one piece of digital content from those of communication devices that

are registered, offered digital content in real time; and offered content being provided in real time

when it is indicated as currently available in real time.

Buhse teaches maintaining registration information on more than one piece of digital

content from those of communication devices that are registered (system updates the catalog and

can be distributed to retail network "The system then updates the catalog and the catalog can be

distributed to a retail network. Orders placed by retailers, by retailers for consumers, or placed

directly by consumers are processed through the OMS 105" see Buhse: ¶[0037]) offered digital

content in real time; and offered content being provided in real time when it is indicated as

currently available in real time (downloading digital content from the content distributor center

to the consumer in real time listing "The Offer Catalog Component (OCC) 102 can be a real time

listing of available digital products" see Buhse: ¶[0031]; Fig.2C Item 6a).

It would have been obvious to one of ordinary skill in the art, having the teachings of

Linden through Buhse before them at the time the invention was made to modify the service

managing method and system of Linden and Angles to include maintaining registration

information on more than one piece of digital content from those of communication devices that

are registered, offered digital content in real time, and offered content being provided in real time

when it is indicated as currently available in real time as taught by Buhse.

One of ordinary skill in the art would have been motivated to make this modification in

order to provide more efficient managing an information transmission service over a network in

view of Buhse.

15.   Regarding claim 16, Linden through Buhse taught service managing system and method

according to claim 14, as described above. Linden further teaches the communication controlling

means updates the information registering means when the information user has been

authenticated with the user identification information (website 300 also includes a user profiles

database 38 which stores account specific information about users of the site see Linden: col.7

line 20).

16.   Regarding claim 17, Linden through Buhse taught service managing system and method

according to claim 16, as described above. Linden and Buhse further teaches the updating

information (system updates the catalog and can be distributed to retail network "The system

then updates the catalog and the catalog can be distributed to a retail network. Orders placed by

retailers, by retailers for consumers, or placed directly by consumers are processed through the

OMS 105" see Buhse: ¶[0037]) includes media information indicative of the type of a media

which can be used by the communication device to send the offered digital content when

providing the offered digital content (download songs or digital work direct from the system in

real time "From the consumer's point of view rendering device independence means that once the

consumer has purchased rights to a digital work, assuming the purchase plan allows for

unrestricted use, the system can log and serve any type of rendering device capable of playing

that type of product. In some cases the rendering device itself can accomplish a direct download

from the system" see Buhse:¶[0221]); and

        the communication controlling means updates the information registering means with the

information indicative of whether the information provider can currently provide the offered

digital content (music title and video title consider as audio/video information that send from

web server to computer user browser "context of a recommendation service, including two

specific implementations thereof, that is used to recommend book titles, music titles, video titles,

and other types of items to individual users of the Amazon.com Web site" see Linden: col.4 lines

40-45) and media information included in the updating information (computer implemented

service and associated method for generating personalized recommendations of items based on

the collective interests of a community of users and updating the recommended lists based on the

users purchased see Linden: col.2 lines 33-45; col.7 lines 40-48).

17.   Regarding claim 19, Linden through Buhse taught service managing system and method

according to claim 14, as described above. Linden and Buhse further teach the updating

information includes digital content indicative of the position of the communication device

which sends the offered information (data stored in the database see Linden: col.7 lines 20-39);

and

the communication controlling means controls, based on the position information, the

connection between the communication device (Linden teaches only recommended information

will be shown to the users and when the user selected the recommended music title or audio title

will send the selected items to the users "the list is filtered by deleting any items that (1) have

already been purchased or rated by the user, (2) have a negative score, or (3) do not fall within

the designated product group (e.g., books) or category" see Linden col. 15 lines 36-40) that

receives the desired piece of offered digital content and the communication device that is the

information provider (download songs or digital work direct from the system in real time "From

the consumer's point of view rendering device independence means that once the consumer has

purchased rights to a digital work, assuming the purchase plan allows for unrestricted use, the

system can log and serve any type of rendering device capable of playing that type of product. In

some cases the rendering device itself can accomplish a direct download from the system" see

Buhse:¶[0221]).

18.   Regarding claim 20, Linden through Buhse taught service managing system and method according to claim 14, as described above. Linden and Angles further teach the communication controlling means includes a call means for sending and receiving a connection control signal for establishing the connection between he communication device that receives the desired piece of offered digital content and the communication device that is the information provider (plurality of content provider computer provider 14 provide connection to the plurality of consumer computer 12 see Angles: Fig.2 and 4); and

        the connection controlling means receives the connection control signal from the call controlling means in the communication device and controls the connection between both the communication devices (web server control the information flow between the user computer and database see Linden: Fig.1 item 34 and 32).

19.   Regarding claim 21, Linden teaches a service providing method for a service providing system including a plurality of communication devices to send or receive offered digital content to be provided by an information provider or to be used by an information user, respectively, each as a user of the information transmission service in which information is sent from one of communication devices connected to each other over a network to the other, and vice versa in real time and a service management device connected to each of the communication devices via the network to manage the information transmission service, the method comprising:

        an information registering step in which information on more than one piece of offered content available from those of communication devices that are registered as information providers is maintained as registration information into an information registering means of the service management device (computer implemented service and associated methods for

generating personalized recommendations of item based on the collective interests of a

community of users in the web server see Linden: col.2 lines 33-37);

an information managing step in which, referring to an information registering means of

the information management device in the service management device, there is dynamically

generated choices-window information from which an information user of the offered content

selects a desired one of the plurality of pieces of offered content ("to generate a set of

recommendations for a give user, the services retrieves from the table the similar items lists

corresponding to items already known to be of interest to the user, and then appropriately.

combines these lists to generate a list of recommended items" see Linden: col.3 lines 7-18) for

the communication device that is to received the desired piece of offered content;

a choices-window information updating step in which an information management means

updates, when the information registering means has been updated based on the updating

information, the choices-window information on the basis of the (external component(40) are

various order processing module for accepting and processing orders and for updating the

purchase histories of the users see Linden: col.7 lines 40-48) updated registration information,

wherein the choices-window information includes information indicative of whether the

communication device that is the information provider can currently provide the offered digital

content in real times; and

a controlling step of controlling the connection between the communication device that

receives the desired piece of offered content (Linden teaches only recommended information will

be shown to the users and when the user selected the recommended music title or audio title,

recommendation server will send the selected items to the users "the list is filtered by deleting

any items that (1) have already been purchased or rated by the user, (2) have a negative score, or

(3) do not fall within the designated product group (e.g., books) or category" see Linden: col. 15

lines 36-40) and the communication device that sends the desired piece of offered content and

the communication device that is the information provider, with the desired piece of offered

content being provided in real time (only recommended information will be shown to the users

"the list is filtered by deleting any items that (1) have already been purchased or rated by the

user, (2) have a negative score, or (3) do not fall within the designated product group (e.g.,

books) or category" see Linden: col. 15 lines 36-40).

Angles teaches a registered information updating step of updating the information

registering means on the basis of updating information reflecting the current status of the

information provider (a system and method for delivering customized electronic advertisement in

an interactive communication system. The customized advertisements are selected based on

consumer computer and are then integrated with offering maintained by different content

providers see abstract). Angles further provides the advantage of when the advertisement

providers status is present, the content provider computer requests the customized advertisement

and the advertisement computer then sends the customized directly to the consumer computer

(FIG. 9 and 10 see Angles Col. 21 line 52).

Linden together with Angles does not explicitly discloses maintaining registration

information on more than one piece of digital content from those of communication devices that

are registered, offered digital content in real time; and offered content being provided in real time

when it is indicated as currently available in real time.

Buhse teaches maintaining registration information on more than one piece of digital

content from those of communication devices that are registered (system updates the catalog and

can be distributed to retail network "The system then updates the catalog and the catalog can be

distributed to a retail network. Orders placed by retailers, by retailers for consumers, or placed

directly by consumers are processed through the OMS 105" see Buhse: ¶[0037]) offered digital

content in real time; and offered content being provided in real time when it is indicated as

currently available in real time (downloading digital content from the content distributor center

to the consumer in real time listing "The Offer Catalog Component (OCC) 102 can be a real time

listing of available digital products" see Buhse: ¶[0031]; Fig.2C Item 6a).

It would have been obvious to one of ordinary skill in the art, having the teachings of

Linden through Buhse before them at the time the invention was made to modify the service

managing method and system of Linden and Angles to include maintaining registration

information on more than one piece of digital content from those of communication devices that

are registered, offered digital content in real time, and offered content being provided in real time

when it is indicated as currently available in real time as taught by Buhse.

One of ordinary skill in the art would have been motivated to make this modification in

order to provide more efficient managing an information transmission service over a network in

view of Buhse.

20.   Regarding claim 23, Linden through Buhse taught service managing system and method

according to claim 21, as described above. Linden and Buhse further teaches

the updating information includes information indicative of the type of a media which can be

used when providing the offered digital content (Instant Recommendations Service can retrieved

more than one type of media, such like items that fall outside any product group, product

category or process see Linden: col.11 lines 21-37); and

in the choices-window information updating step, the choices-window information is

made to reflect the information indicative of whether the information provide can currently

provide the offered digital content in real time (downloading digital content from the content

distributor center to the consumer in real time listing "The Offer Catalog Component (OCC) 102

can be a real time listing of available digital products" see Buhse: ¶[0031]; Fig.2C Item 6a) and

media information included in the updating information (system updates the catalog and can be

distributed to retail network "The system then updates the catalog and the catalog can be-

distributed to a retail network. Orders placed by retailers, by retailers for consumers, or placed

directly by consumers are processed through the OMS 105" see Buhse: ¶[0037]).

21.   Regarding claim 25, claim 25 is rejected for the same reason in claim 19 as set forth

hereinabove.

22.   Regarding claim 26, Linden through Buhse taught service managing system and method

according to claim 1, as described above. Buhse further teaches wherein the digital content is

video content (video games and motion pictures download over the network "For example,

popular songs, once distributed primarily as tangible vinyl records, can be digitally recorded,

transmitted over the Internet and downloaded into MP3 players. Similarly computer software,

video games, and motion pictures can be encoded, transmitted at high speed and downloaded or

displayed on widely available personal computers" see Buhse: ¶[0003]).

23.   Regarding claim 27, Linden through Buhse taught service managing system and method

according to claim 1, as described above. Buhse further teaches wherein the digital content is

audio content (songs that download over the network to personal computer "For example,

popular songs, once distributed primarily as tangible vinyl records, can be digitally recorded,

transmitted over the Internet and downloaded into MP3 players. Similarly computer software,

video games, and motion pictures can be encoded, transmitted at high speed and downloaded or

displayed on widely available personal computers" see Buhse: ¶[0003]).

24.   Regarding claim 28, claim 28 is rejected for the same reason in claim 26 as set forth

hereinabove.

25.   Regarding claim 29, claim 29 is rejected for the same reason in claim 27 as set forth

hereinabove.

26.   Regarding claim 30, claim 30 is rejected for the same reason in claim 26 as set forth

hereinabove.

27.   Regarding claim 31, claim 31 is rejected for the same reason in claim 27 as set forth

hereinabove.

28.   Regarding claim 32, claim 32 is rejected for the same reason in claim 26 as set forth

hereinabove.

29.   Regarding claim 33, claim 33 is rejected for the same reason in claim 27 as set forth

hereinabove.

30.   Claims 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linden et

al. (US 6,266,649) in view of Angles et al. (US 5,933,811) in view of Buhse et al. (US

2004/0024652 A1) and in further in view of Cave et al. (US 6,996,094).

Regarding claim 34, Linden through Buhse taught the apparatus according to claim 1 as

described hereinabove. Angles further teaches wherein when selection is made of a desired one

of the plurality of pieces of offered digital content (plurality of content provider computer

provider 14 provide connection to the plurality of consumer computer 12 see Angles: Fig.2 and

4), the communication controlling means establishes a session between the communication

device that receives the desired piece of offered digital content (Linden teaches only

recommended information will be shown to the users and when the user selected the

recommended music title or audio title, recommendation server will send the selected items to

the users "the list is filtered by deleting any items that (1) have already been purchased or rated

by the user, (2) have a negative score, or (3) do not fall within the designated product group (e.g.,

books) or category" see Linden: col. 15 lines 36-40) and the communication device that is the

information provider to accommodate providing the offered digital content in real time (only

recommended information will be shown to the users "the list is filtered by deleting any items

that (1) have already been purchased or rated by the user, (2) have a negative score, or (3) do not

fall within the designated product group (e.g., books) or category" see Linden: col. 15 lines 36-

40).

Angles through Buhse does not explicitly teach communication devices are voice over

internet protocol devices.

However, Cave teaches the communication devices are voice over internet protocol

devices (voice over internet capability in gateway "Also present on the network are gateways

with VOIP capability, such as originating gateway 810 and terminating gateway 812 (also

referred to herein as destination gateway" see Cave: col. 19 lines 62-67) to provide VRU to function less power and more cost efficient.

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of the modified Linden to include (or to use, etc.) the communication devices are voice over internet protocol devices. as taught by Cave in order to provide VRU to function less power and more cost efficient.

31.   Regarding claim 35, Linden through Cave taught the apparatus according to claim 34 as described hereinabove. Angles further teaches the communication controlling means establishes the session between the communication devices without requiring user input of connection addresses from the respective communication devices (direct connection between content provider computer and the consumer computer without user input after registration event A and B "Once connected to the Internet provider 34, the consumer can direct the browser to access information provided by one of the content provider computers 14. The Internet provider 34 then communicates with the Internet 33 to establish a communications link between the consumer computer 12 and the desired content provider computer 14" see Angles: col.9 line 65; col.17 lines 40-67).

32.   Regarding claim 36, claim 36 is rejected for the same reason in claim 34 as set forth hereinabove.

33.   Regarding claim 37, claim 37 is rejected for the same reason in claim 35 as set forth hereinabove.

34.   Regarding claim 38, claim 38 is rejected for the same reason in claim 34 as set forth hereinabove.

35.   Regarding claim 39, claim 39 is rejected for the same reason in claim 35 as set forth

hereinabove.

        (10) Response to Argument

36.   Applicant argues the following limitation(s):

        1) Applicant argues on IV.B.1, stated in the Appeal Brief on page 11, "Linden fails to

address in anyway controlling a connection between two respective communication devices so

that the digital content can be provided from one communication device to the other."

        In response to argument 1), Examiner respectfully disagrees Linden fails to even address

in any way controlling a connection between respective communication devices. On the contrary,

Linden teach recommended information will be shown to the users and when the user selected

the recommended music title or video title, recommendation server will send the selected items

to the user. This clearly teaches <u>controlling a connection flow information</u> based on user input.

There is no clear defination of digital content defined in the claim and examiner interpret the

recommendation of book title, music title or video title as the digital content (Linden: col.4 lines

40-45). The digital book title, music title or video title are the digital content available to user

upon user input. In additional, web server 32 controlling the information flow between the client

user and the user profiles which client users and user profile are part of communication devices.

Furthermore, the recommendation of user interests on books and music are rated by the users and

the ratings are stored in the user profile.

        2) Applicant argues on IV. B.2, stated in the Appeal Brief on page 14, "The Examiner

erroneously alleges that claim 1 does no require separate communication devices, one providing

the digital content and the other receiving digital content, as well as establishing connection

between the former and latter communication devices."

In response to argument 2), Examiner respectfully disagrees with applicant, the claim

language claimed to receive the desired piece of the offered digital content between the

information receiver and the provider. Linden dicloses the digital book title, music title or video

title are the digital content available to user upon user input. In addition, Angel also teaches

when a consumer accesses a content provider, the content provider transmits an electronic

document to the consumer. Embedded within the electronic document is a advertisement request.

When the consumer's computer displays the electronic document, the embedded advertisement

request directs the consumer computer to communicate with an advertisement provider. This also

teaches offered the digital content between the information user and information provider. In

response to establish connection limitation, Linden teaches a web server establishes the

connection between the web server and the recommendation services to provide recommendation

to the users. This is clearly teaching of establishment of a connection between the user client and

the external components devices. In addition, establishment of a connection between the

communication devices was not in the claim language. At most applicant claimed the

communication controlling the connection between the communication devices, not the

establishing connections between each others. However, the client device received the

recommendation of a product and the user profile as the information provider providing the

recommendations for the clients in real time. Furthermore, Angles also teaching the establishing

the connection between the communication devices (Angles: col.10 lines 38-60; Fig.4).

3) Applicant argues IV.B.3, stated in the Appeal Brief on page 15, "Even if the "recommendation" or "title" of work displayed on a Linden website is contracted as "digital content", the Linden reference remains variously deficient in falling to discloses the type of choices-window information and corresponding communication control claimed by appeallant".

In response to argument 3), Examiner respectfully disagrees applicant argument that Linden recommendation of the product constitue offered digital content in real time. Linden teaches recommended information will be shown to the users and when the user selected the recommended music title or video title, recommendation server will send the selected items to the users "the list is filtered by deleting any items that (1) have already been purchased or rated by the user, (2) have a negative score, or (3) do not fall within the designated product group (e.g., books) or category" see Linden: col. 15 lines 36-40. In another word, when the user selected the recommended music title or audio title, the selected items information will be sent to the user. Although only the information contents are sent to the user, it would be obvious to one ordinary skill in the art to combine Linden with Angles to provide actual content instead of information contents to the users such as downloading a song after purchased. In addition, Angles teaches when a consumer accesses a content provider, the content provider transmits an electronic document to the consumer. This clearly stated Linden with Angles teaches the claim limitation of the choices window information that are offered digital content in realtime as described in claim 1.

4) Applicant argues IV.B.4, stated in the Appeal Brief on page 16, "Angles does not remedy the deficiencies of Linden" and "Although some content is arguably delivered from the advertisement provider computer to the consumer computer (i.e., the customized ads,

presumably within web pages or the like that are accessed through the content provider

computer), as with the Linden reference there clearly is no registration as an information

provider, nor is there the feature of having choices-window information from which selection is

made of a desired one of the plurality of pieces of offered digital content by those of the

communication devices that are to receive the desired piece of offered digital content."

In response to argument 4), Angles does remedy the deficiencies of Linden for the

argument above. Angles teach the server software sends copies of HTML pages to each

consumer computer 12 which accesses the content provider computer. In addition, A consumer

who wishes to receive customized advertisements first registers with the advertisement provider

by entering pertinent demographic information into the advertisement provider's demographic

database (Angles: col. 3 lines 6-17). Since Linden taught the selection of desired content in a

choices window and Angles teaches the communication between the consumer computer and

provider computer, one of ordinary skill in the art would combine Linden with Angles to teach

the registration as an information and features of choices-window information from which

selection is made of desired one of the plurality of pieces of offered digital content. In addition,

the comunicaiton devices is a separate device not claimed in the claim language. Although

Linden does not provide the separate communication between the information provider and the

information recipients, Angles teaches a plurality of content provider computer provider 14

providing connection to the plurality of consumer computer 12 (see Angles: Fig.2 and 4). In

addition, establishment of connections between separate communication devices of information

communication device to the latter communication device is not in the claim language.

5) Applicant argues VII.C, as stated in the Appeal Brief on page 18, " Linden, Angles, and Buhse fail to disclose or suggest the features recited in dependent claims 3 and 10."

In response to argument 5), Linden teaches only recommended information will be shown to the users and when the user selected the recommended music title or video title, recommendation server will send the selected items to the users "the list is filtered by deleting any items that (1) have already been purchased or rated by the user, (2) have a negative score, or (3) do not fall within the designated product group (e.g., books) or category" (see Linden: col. 15 lines 36-40) and the user can also select a specific category such as "non-fiction" or "romance" from a drop down menu 202 to request category-specific recommendations (see Linden: col.15 lines 63-67). Since the Linden teaches the generating recommendation information (such music title, video title as digital content) to the user in real time. It clearly teaches the information managing means generates the choices-window information from which selection is available only for digital content that can currently be provided in real time.

6) Applicant argues VII.D, as stated in the Appeal Brief on page 18, " Linden, Angles and Buhse fail to disclose or suggest the features recited in dependent claims 4, 11, 17 and 23."

In response to argument 6), Buhse teach from the consumer's point of view rendering device independence means that once the consumer has purchased rights to a digital work, assuming the purchase plan allows for unrestricted use, the system can log and serve any type of rendering device capable of playing that type of product. In some cases the rendering device itself can accomplish a direct download from the system (see Buhse: ¶ [0221]). Although Buhse doesn't explicitly mention any particular type of media, but automation packaging component can support a wide variety of content type (see Buhse: ¶[0201]). In addition, Buhse teaches a

song can be supplied in different type of available formats (see Buhse: ¶[0221]). This clearly

teaches the digital content can be variety type of formats.

7) Applicant argues VII.E, as stated in the Appeal Brief on page 19, " Linden, Angles and

Buhse fail to disclose or suggest the features recited in dependent claim 19."

In response to argument 7), Linden teaches the digital book title, music title or video title

are the digital content available to user upon user input. In additional, web server 32 controlling

the information flow between the client user and the user profiles which client users and user

profile are part of communication devices. Furthermore, the recommendation of user interests on

books and music are rated by the user and the ratings are stored in the user profile. Linden

teaches based on the user selection (user position information) to choose the recommended

music title or video titles. In addition, Buhse further teaches the direct download from the system

based on user input. (from the consumer's point of view rendering device independence means

that once the consumer has purchased rights to a digital work, assuming the purchase plan allows

for unrestricted use, the system can log and serve any type of rendering device capable of

playing that type of product. In some cases the rendering device itself can accomplish a direct

download from the system (see Buhse:¶[0221]).

8) Applicant argues VII.F, as stated in the Appeal Brief on page 20, " Linden, Angles,

Buhse and Cave fail to disclose or suggest the features recited in dependent claims 34-39."

In response to argument 8), Cave teaches voice over internet capability in gateway, also present

on the network are gateways with VOIP capability, such as originating gateway 810 and

terminating gateway 812 (see Cave: col. 19 lines 62-67). Since the Linden through Buhse teaches

the service managing apparatus for managing an information transmission between the server

and client and Cave teaches data over a VOIP between the calling and called parties via H.323

call 820 and 838 (see Cave: col. 15 col. 49-54), it would have been obvious to one of ordinary

skill in the art at the time of invention to create the invention of the modified Linden to include

(or to use, etc.) the communication devices are voice over internet protocol devices as taught by

Cave in order to provide VRU to function less power and more cost efficient.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related

Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

GL

12/09/2009

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